

Introduced by Senator Maldonado

February 23, 2007

An act to add Section 655.7 to the Business and Professions Code, relating to the healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 661, as introduced, Maldonado. Healing arts: anatomic pathology services.

Existing law makes it unlawful for healing arts practitioners to charge, bill, or otherwise solicit payment from any patient, client, customer, or 3rd-party payer for cytologic services relating to the examination of gynecologic slides if those services were not actually rendered by the practitioner or under his or her direct supervision. Existing law also requires clinical laboratories performing cytologic examinations of gynecologic slides to directly bill either the patient or the responsible 3rd-party payer for the cytology services rendered by the laboratory, except as specified. Under existing law, a violation of these provisions is a crime.

This bill would also prohibit those healing arts practitioners from charging, billing, or otherwise soliciting payment for anatomic pathology services, as defined, if those services were not actually rendered by the practitioner or under his or her direct supervision, except as specified. The bill would also require a clinical laboratory and a physician and surgeon providing anatomic pathology services to directly bill the patient, the responsible 3rd-party payer, the clinical laboratory that referred the sample, or the requesting hospital or clinic for those services, except as specified.

Because a violation of these provisions would be punishable as a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 655.7 is added to the Business and
2 Professions Code, to read:

3 655.7. (a) (1) A person licensed under this division or under
4 an initiative act referred to in this division shall not charge, bill,
5 or otherwise solicit payment, directly or indirectly, for anatomic
6 pathology services, if those services were not actually rendered
7 by that person or under his or her direct supervision.

8 (2) Notwithstanding paragraph (1), a clinical laboratory may
9 seek payment for anatomic pathology services if it is required to
10 send a sample to a specialist. For these purposes, “clinical
11 laboratory” shall not include a physician’s and surgeon’s laboratory
12 or a laboratory of a group practice of physicians and surgeons, if
13 the laboratory did not perform the technical or professional
14 component of the anatomic pathology service associated with the
15 sample sent to a specialist.

16 (b) A clinical laboratory or a physician and surgeon performing
17 anatomic pathology services shall seek payment for those services
18 solely from the following:

19 (1) The patient.

20 (2) The insurer, health care service plan, or other third-party
21 payer responsible for payment of the services.

22 (3) The hospital, public health clinic, or nonprofit health clinic
23 ordering the services.

24 (4) The clinical laboratory that sent the sample, other than a
25 laboratory of a physician and surgeon or the laboratory of a group
26 practice of physicians and surgeons that did not perform the
27 technical or professional component of the anatomic pathology
28 service for which payment is sought.

1 (5) A governmental agency or its specified public or private
2 agent, agency, or organization responsible for payment of the
3 services.

4 (c) No person is required to reimburse a person licensed under
5 this division or under an initiative act referred to in this division
6 for a charge or claim made in violation of this section.

7 (d) This section shall not apply to any of the following:

8 (1) A person who, or a clinical laboratory that, contracts directly
9 with a health care service plan licensed pursuant to Section 1349
10 of the Health and Safety Code, if services are to be provided to
11 enrollees of the plan on a prepaid basis.

12 (2) A person who, or a clinic that, provides anatomic pathology
13 services without charge to the patient, or on a sliding scale payment
14 basis if the patient's charge for services is determined by the
15 patient's ability to pay.

16 (3) Health care programs operated by public entities, including,
17 but not limited to, colleges and universities.

18 (4) Health care programs operated by private educational
19 institutions to serve the health care needs of their students.

20 (5) A person who, or a clinic that, contracts with an employer
21 to provide medical services to its employees if the anatomic
22 pathology services relating to the examination of gynecologic
23 slides are provided under the contract.

24 (e) For the purposes of this section, the term "anatomic
25 pathology services" means any of the following:

26 (1) Histopathology or surgical pathology, meaning the gross
27 and microscopic examination and histologic processing of organ
28 tissue performed by a physician and surgeon or under the
29 supervision of a physician and surgeon.

30 (2) Cytopathology, meaning the examination of cells from fluids,
31 aspirates, washings, brushings, or smears, including the Pap test
32 examination, performed by a physician and surgeon or under the
33 supervision of a physician and surgeon.

34 (3) Hematology, meaning the microscopic evaluation of bone
35 marrow aspirates and biopsies performed by a physician and
36 surgeon, or under the supervision of a physician and surgeon, and
37 peripheral blood smears when the attending or treating physician
38 and surgeon or technologist requests that a blood smear be
39 reviewed by a pathologist.

40 (4) Subcellular pathology and molecular pathology.

1 (5) Blood banking services performed by a pathologist.
2 SEC. 2. No reimbursement is required by this act pursuant to
3 Section 6 of Article XIII B of the California Constitution because
4 the only costs that may be incurred by a local agency or school
5 district will be incurred because this act creates a new crime or
6 infraction, eliminates a crime or infraction, or changes the penalty
7 for a crime or infraction, within the meaning of Section 17556 of
8 the Government Code, or changes the definition of a crime within
9 the meaning of Section 6 of Article XIII B of the California
10 Constitution.